

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

KENNETH EUGENE BARRON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 04CV40023RCL
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	
	)	

**DEFENDANT’S<sup>1</sup> LOCAL RULE 16.1 STATEMENT**

The defendant, United States of America, submits the following statement pursuant to  
Local Rule 16.1:

**1. Agenda for Scheduling Conference:**

The matters to be discussed at the Initial Scheduling Conference are:

- a. Status report to the Court of Plaintiff’s medical developments since the last filing in this case in June 2004;
- b. Proposed discovery schedule;
- c. Schedule for filing dispositive motions; and,
- d. Final pretrial conference and trial dates.

**2. Pre-Discovery, Limited Issue Dispositive Motion:**

With the Court’s permission, Defendant will file a pre-discovery dispositive motion by or before **July 31, 2005**, on the “triable” issues identified by the Court in its *Memorandum and*

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<sup>1</sup> Defendant was unable to confer with plaintiff Eugene Barron in this matter due to Plaintiff’s incarceration. Consequently, Defendant was unable to prepare a “joint” statement of the parties.

*Order on Cross Motions for Summary Judgment* (“Memorandum and Order”), dated March 31, 2005. See Memorandum and Order, p. 5. Specifically, Defendant will submit further medical declarations and supporting documentation, such as the declaration attached to this Statement (see attached Declaration of Sandra L. Howard, M.D., dated April 2005), which contradicts any notion that Plaintiff is receiving less than adequate care from Defendant. See Memorandum and Order, p. 5. Moreover, the proposed motion would also demonstrate the exact steps taken to attend to both Plaintiff’s kidney transplant request and the evaluation of his liver disease, as well as indicate the current state of the health of Plaintiff’s kidneys and liver overall. Id. As all of these issues were identified by the Court as concerning, Defendant would like to have the opportunity to reassure the Court in the proposed motion while also potentially alleviating the need for trial.

**3. Alternative Proposed Limited Issue Discovery Plan:**

In the event that the Court is disinclined to allow Defendant to file a limited issue, pre-discovery dispositive motion on the issues identified by the Court in its Memorandum and Order, Defendant proposes that all discovery be limited to those issues identified by the Court on page 5 of its Memorandum and Order. Further, Defendant requests that the Court issue a directive to the parties concerning the limits of the discovery and prohibiting the parties from seeking discovery on any non-disputed issues, i.e., those issues contained in Defendant’s Loc. R. 56.1 Statement, which the Court has already deemed “admitted by the plaintiff.” See Memorandum and Order, p. 3. Within those confines, Defendant proposes the following:

- a. All discovery (interrogatories, requests for production of documents, and depositions) shall be completed by **July 31, 2005**.

3. **Consent to Trial by Magistrate:**

The parties do not consent to a trial by a United States Magistrate Judge at this time.

4. **Proposed Schedule for Motions:**

All dispositive motions are to be filed by September 30, 2005.

5. **Final Pre-Trial Conference:**

A final pretrial conference shall be scheduled after decisions are rendered on all dispositive motions.

6. **Certification under Local Rule 16.1(D)(3)**

Counsel for Defendant herein certifies that she has conferred with her client with a view to establishing a budget for the costs of conducting the full course, and various alternative courses, of this litigation, and they have considered and discussed the resolution of this litigation through the use of alternative dispute resolution programs as outlined in Local Rule 16.4.

Respectfully submitted,

Defendant, United States of America,

By its attorney,

MICHAEL J. SULLIVAN

United States Attorney

By: /s/ Gina Y. Walcott-Torres  
Gina Y. Walcott-Torres  
Assistant U.S. Attorney  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way, Suite 9200  
Boston, MA 02210  
(617) 748-3369

Dated: June 7, 2005

**CERTIFICATE OF SERVICE**

This is to certify that I have this 7<sup>th</sup> day of June 2005, served upon the person listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

Kenneth Eugene Barron (Prison #30255-037), *pro se*, FMC Devens, P.O. Box 879, Ayer,  
MA 01432

/s/ Gina Y. Walcott-Torres  
Gina Y. Walcott-Torres  
Assistant United States Attorney

**REQUEST FOR WAIVER OF LOCAL RULE 7.1(A)(2) CERTIFICATION**

The undersigned counsel hereby requests a waiver of the requirements of Local Rule 7.1(A)(2). As reasons therefore, she asserts that the plaintiff, who is acting *pro se*, is incarcerated at the Federal Medical Center in Devens, Massachusetts.

/s/ Gina Y. Walcott-Torres  
Gina Y. Walcott-Torres  
Assistant United States Attorney